

## **BROKERAGE SERVICES TERMS AND CONDITIONS**

MoLo Solutions, LLC., a truckload brokerage service (DOT#3000394) (“MoLo”) is in the business of arranging transportation of property by third-party motor carriers and MoLo holds authority from the Federal Motor Carrier Safety Administration to engage in operations as a transportation broker of general commodities (except Household Goods) in interstate or foreign commerce for MoLo customers (“Shipper”). MoLo and Shipper may be referred to herein individually as a “Party” and collectively as the “Parties.”

Shipper understands and acknowledges that: (1) MoLo is not a motor carrier, (2) MoLo is a broker which arranges for the transportation of freight by third-party motor carriers, and (3) MoLo intends to engage and contract with one or more motor carriers (as defined below), for purposes of satisfying obligations under these Terms and Conditions.

By tendering freight to MoLo, arranging for freight to be tendered to MoLo, or otherwise requesting services from MoLo, Shipper agrees to be legally bound by these Terms and Conditions, as amended from time to time, by MoLo in its sole discretion.

These Terms and Conditions, as amended from time to time, apply to any services of MoLo, unless expressly waived in a writing signed by an officer of MoLo. In addition, Shipper specifically waives access to Broker’s records pursuant to 49 C.F.R. § 371.3.

### **AGREEMENT**

1. **SERVICE.** MoLo agrees to arrange for transportation of Shipper’s freight (“Goods”) by third-party motor carriers (“Carrier(s)"). MoLo’s responsibility is limited to arranging for, but not actually performing, transportation carriage of Goods. Nothing in these Terms and Conditions shall be deemed to require MoLo to provide services upon request of Shipper, and MoLo reserves the right to accept or decline, in its sole discretion, any particular request for services.
2. **SHIPPER RESPONSIBILITIES.**
  - A. **Compliance with Laws.** Shipper warrants that it is the beneficial owner or agent authorized to bind the beneficial owner with respect to these Terms and Conditions. Furthermore, Shipper warrants and represents that Shipper is in compliance with all laws, regulations and requirements applicable to Shipper’s business and requested services. Shipper is responsible for complying with all applicable export and import laws and regulations.
  - B. **Special Handling.** Unless specialized handling instructions are provided by Shipper in accordance with these Terms and Conditions, Shipper acknowledges and agrees that no specialized handling (including, but not limited to, controlled temperature service or protection from cross contamination) will be provided and

Shipper further warrants and represents that any and all cargo has been packaged, so as to ensure cargo shall remain in safe and sanitary condition, without the need for any specialized handling by the Carrier. If Shipper wishes to request specialized handling, Shipper must do so in writing provided to MoLo with the initial request for services with respect to the specific consignment, to which such request relates (“Written Instructions”). Shipper acknowledges and agrees that MoLo’s sole obligation, with respect to any requested special handling, is to pass through to the Carrier the instructions contained in such a notice. Any failure or alleged failure to comply with specialized instructions shall not, in and of itself, result in any presumption that the shipment is unsafe, contaminated, adulterated, or otherwise unfit for its intended purpose or use, nor shall it be otherwise grounds for rejection of a shipment or filing of a claim for cargo loss and damage without proof of actual loss or damage. Under no circumstances shall MoLo, or any Carrier, be obligated to perform the duties of a “shipper” as that term is defined in any applicable law, rule or regulation. BY TENDERING ANY SHIPMENT WHICH CONTAINS FOOD INTENDED FOR HUMAN OR ANIMAL CONSUMPTION, INCLUDING ARTICLES USED FOR COMPONENTS THEREOF, SHIPPER WARRANTS AND REPRESENTS THAT IT HAS INSPECTED THE TRANSPORTATION EQUIPMENT IN QUESTION AND DETERMINED THAT THE EQUIPMENT IS IN COMPLIANCE WITH ANY AND ALL STANDARDS APPLICABLE TO THE GOODS IN QUESTION. ANY THIRD-PARTY MAKING SHIPPER’S GOODS AVAILABLE FOR TRANSPORTATION IS FULLY AUTHORIZED TO ACT ON BEHALF OF SHIPPER WITH RESPECT TO DETERMINING WHETHER THE TENDERED TRANSPORTATION EQUIPMENT IS ACCEPTABLE.

C. **Hazardous Materials and Dangerous Goods.** Shipper will not tender for transportation or storage any hazardous materials or dangerous goods (as defined by applicable international convention or code, or otherwise applicable federal, state or provincial legislation or regulations, including but not limited to those set forth in DOT regulations, 49 C.F.R. Parts 100 to 185, and the Transport Dangerous Goods Regulations/Canada) without first giving written notice to MoLo at the time of the initial request for services with respect to the specific consignment to which such notice relates. Shipper is solely responsible for complying with any and all applicable laws and regulations imposed on the offeror of any such cargo, including with respect to classifying, tendering, packaging and labeling such hazardous materials as dangerous goods.

D. **Shipper Written Instructions.**

i. Shipper warrants and represents that it is authorized to tender the Goods to MoLo and that all descriptions of the Goods are complete, accurate, and include all information required by applicable law, rules, or regulation. Shipper must provide necessary shipping instructions and properly identify all Goods in the bill of lading. Shipper will not tender any prohibited or restricted commodities.

**E. Cargo Loading and Securement.**

- i. Shipper is responsible for ensuring that Goods are properly and safely packaged and loaded. If Carrier is not allowed on the dock during loading, Shipper is responsible for ensuring that Goods are supported, blocked, braced, and secured. If Shipper is loading the Goods into the motor vehicle, Shipper must inspect the vehicle or other transportation equipment provided by the Carrier, to ensure it meets the requirements specified in the Written Instructions and is in an appropriate sanitary condition for transporting the Goods.
- ii. Shipper must reject any equipment that is not in apparent suitable condition to protect and preserve the Goods during transportation. Vehicles and other transportation equipment used to transport the Goods will be deemed acceptable to Shipper upon loading.

**3. MOLO'S RESPONSIBILITIES.**

A. MoLo's sole responsibility, with respect to selection and retention of Carriers, is to make reasonable efforts to place Shipper's loads with responsible Carriers. However, MoLo makes no express or implied warranties or guarantees concerning delivery time or the locating of a Carrier to provide the transportation services requested by Shipper. MoLo will select Carriers, using criteria no less stringent than the following:

- i. Verifying the Carrier's operating authority;
- ii. Verifying the Carrier's insurance coverage, with coverage not less than:
  1. \$1,000,000 per occurrence for Commercial Auto Liability;
  2. \$100,000 per occurrence for Motor Truck Cargo Liability;

B. MoLo will require by written contract, that each Carrier providing transportation services agrees:

- i. That it is and shall remain duly and legally licensed under applicable state, providential, and federal law, to provide transportation services;
- ii. That it does not have a "conditional" or an "unsatisfactory" safety rating issued by the United States Department of Transportation or any state or provincial authority with jurisdiction over its operations, and that it will comply with all applicable federal, state, provincial laws;
- ii. That it is performing services pursuant to a written contract; and,

- iii. That it will obtain a receipt showing the kind and quantity of goods delivered to the consignee of each shipment at the destination.
4. **INCIDENTAL, CONSEQUENTIAL, AND OTHER INDIRECT DAMAGES.** Neither MoLo nor Carriers shall be liable and each hereby disclaims responsibility, for any indirect, incidental, special, punitive, consequential, or multiplied damages, or other indirect costs, lost profits, chargebacks, fees, charges, or delays of any kind, whether or not foreseeable or disclosed including, but not limited to, lost profits or damages due to business interruption or shut down. Additionally, no breach of these Terms and Conditions, whether material or immaterial, or material deviation will extend MoLo's or Carriers' liability beyond the limitations specified herein.
5. **RECEIPTS AND BILLS OF LADING.** Shipper's insertion of MoLo's name on the bill of lading will be for Shipper's convenience only, and will not change MoLo's status as a property broker. The terms and conditions of any freight documentation used by Shipper or Carrier will not supplement, alter, or modify these Terms and Conditions.
6. **PAYMENTS.** MoLo will charge and Shipper will pay all services charges in full and without offset or deduction within fifteen (15) days from the invoice date, including Saturdays, Sundays, and legal holidays. The credit term begins the day after the invoice date. On business-to-business credit card payments, Shipper will pay a two percent (2%) handling charge on all service fees and charges. For any invoices not paid within fifteen (15) days from the invoice date, or other credit period, if applicable, and for which MoLo utilizes an outside collection agency and/or attorney to effect collections, Shipper shall pay a collection handling fee of thirty (30) percent of the unpaid amount. Shipper is responsible for all fees and costs, including reasonable attorneys' fees, litigation costs and collection agency fees, incurred by MoLo in enforcing collection of payments for unpaid invoices. If any information provided by Shipper is inaccurate or incomplete, Shipper acknowledges and agrees that the agreed upon rates may, in MoLo's sole discretion, be revised to reflect the goods or weight actually tendered. Shipper shall also be responsible for any additional accessorial charges imposed by the Carrier which were not anticipated by MoLo at the time MoLo arranged for services with the Carrier or which were not otherwise included in the rate set forth in the load confirmation. In no event will MoLo have any responsibility for, and Shipper will defend, indemnify, and hold MoLo harmless from, and will pay and reimburse, any charges imposed by third parties with respect to use of equipment in which cargo tendered by, to or on behalf of Shipper is or has been laden, or for charges assessed with respect to storage or handling of any such equipment, including, but not limited to, charges assessed by steamship lines, rail carriers, rail terminal operators, marine terminal operators or port authorities. Without limiting the generality of the foregoing, MoLo shall have no liability for any such charges arising from or related to port congestion, lack of equipment availability, labor shortages, or other situations impacting port or intermodal transportation operations. MoLo shall have a possessory lien on all cargo, and any proceeds therefrom, in its, or in the Carrier's, dominion or control for the payment of any and all amounts due and owing from Shipper

or with respect to services rendered at the request, or for the benefit of, Shipper. In addition, to the extent not prohibited by applicable law, MoLo will have a general lien on any cargo under its, or the Carrier's, dominion or control, and any proceeds thereof, for any and all amounts due and owing from Shipper or with respect to services rendered at the request, or for the benefit of, Shipper regardless of whether those amounts relate to cargo or proceeds against which the general lien is enforced.

## 7. CLAIMS.

- A. **Cargo Claims.** MoLo is acting as a property broker, not a motor carrier or freight forwarder, and has no liability for loss, damage and/or delay to Goods except to the extent such claims are caused by MoLo's negligent acts or omissions, in which case, MoLo's liability shall be limited in accordance with subparagraph (C) below. Shipper is responsible for filing a claim with MoLo, alleging MoLo's liability for cargo loss and damage within six (6) months of the date of delivery of the Goods (or, if none, within six (6) months of the date the Goods should have been delivered). Failure to do so will result in an absolute bar to any such claim and will relieve MoLo of any and all liability with respect thereto. MoLo shall require Carrier to agree to assume the liability of a motor carrier (*i.e.* "Carmack Amendment" liability) for loss, damage and/or delay to the Goods while in transit, subject to a maximum liability of \$100,000 per shipment, unless otherwise agreed to in writing between the Parties. Shipper acknowledges that liability is limited in consideration of a lower rate than would otherwise be applicable and that Shipper has the option to request a higher valuation of liability at the time of booking. MoLo may assist Shipper in the filing and/or processing of claims with Carrier (claims must be submitted at <https://shipmolo.com>), if Shipper submits claims for cargo loss, damage and/or delay, fully supported by all relevant documentation, including but not limited to the signed delivery receipt, with MoLo (which MoLo will forward such cargo claim to the Carrier) within nine (9) months from the delivery date or, in the event of non-delivery, the scheduled delivery date. Shipper must file any civil action in a court of law within two (2) years from the date that any part of the claim is disallowed. Shipper acknowledges and agrees that the sole liability of MoLo, with respect to loss, damage or delay to cargo, shall be as set forth in this provision and Shipper warrants and represents that if it is not the owner of such cargo, Shipper holds authority from such owner to bind the owner to the provisions of these Terms and Conditions
- B. **All Other Claims.** The Parties shall notify each other of all known material details of any claims in writing within 60 days of receiving notice of any claims other than cargo loss or damage claims and shall update each other promptly thereafter as more information becomes available. Civil actions must be commenced within 2 years from the date either Party provides written notice to the other Party of such a claim. MoLo agrees to notify Shipper of any accident or other event of which

MoLo is apprised and which prevents the Carrier from making a timely or safe delivery.

- C. **Limit of Liability.** MoLo's aggregate liability to Shipper, or any third party, for all claims, losses, and damages related to the services provided pursuant to these Terms and Conditions, and any loss or damage to Goods for which shipment is arranged by MoLo, whether based on an action in contract, equity, negligence, tort, statute, or other theory, will not exceed an amount equal to the total charges specifically charged by MoLo for the service or shipment giving rise to such claims or damages. MoLo's services are provided "as is" and "as available," without warranties of any kind, either express or implied, including, but not limited to warranties of fitness for a particular purpose. MoLo is not liable for the consequences of identify theft or fraudulent conduct of third parties, including utilizing the services of entities representing themselves to be Carriers or representatives thereof.
  
- D. **Trailer Seals.** Unless otherwise agreed by MoLo, Shipper is responsible for applying the seal to any trailer tendered for services. If the seal originally applied to the trailer is intact upon delivery, neither MoLo nor the Carrier will be liable for shortage or theft unless there is physical evidence of unauthorized entry into the trailer while it was in the possession of the Carrier and proof of actual damage or loss of Goods. Shortage or theft claims must be supported by seal records and actual loading and unloading records. Additionally, neither MoLo nor the Carrier will be liable for shortage or theft if the seal is broken: (1) at the direction and under the supervision of a Governmental Authority and is resealed after inspection by such Governmental Authority; or, (2) because it becomes reasonably necessary to do so to inspect, reposition, or protect the cargo or the trailer or to comply with applicable laws or regulations. In both instances, MoLo will request the Carrier to document the breaking of the original seal and application of a new seal in such circumstances. In the absence of any other evidence, a missing, unreadable, or broken seal will not create a presumption of loss to or contamination of the Goods, nor otherwise be grounds for rejection of a shipment or filing of a claim for cargo loss and damage without proof of actual loss or damage. The consignee may not refuse delivery of a shipment, even for food grade loads, due to broken, unreadable, or missing seals, unless there is direct physical evidence of product tampering or contamination beyond the broken, unreadable, or missing seal. Contamination claims must be supported by appropriate quality inspections outlining the full actual loss.
  
- E. **Mitigating Damages.** None of the provisions in these Terms and Conditions in any way limits Shipper's obligation to mitigate damages, including by salvaging all portions of a shipment for which there is a secondary market.

8. **INSURANCE.**

- A. MoLo agrees, at its own expense, at all times during the term of these Terms and Conditions, to maintain all insurance required by law for interstate property brokers.
- B. Shipper is responsible for maintaining property insurance covering the Goods, both for the Goods and in transit, including loading and unloading.
- C. MoLo may consult an insurance broker to arrange insurance appropriate to Shipper's specific needs. Upon request by the Shipper, MoLo may offer, for an additional cost and through its designated insurance carrier or insurance broker, to arrange for shipment-specific cargo policies to be issued in Shipper's name. Following the issuance of any such policy through their insurance underwriter, MoLo will have no further duty regarding cargo insurance and no liability for loss of, delay of, or damage to the Goods during transport or storage, whether covered by insurance on the Goods or not, and whether such loss, delay or damage has been caused or contributed to by its negligence or breach of these Terms and Conditions, or otherwise. Any coverage on the Goods will be subject to the terms and conditions of the specific policy or policies procured. MoLo is not liable if Shipper for any reason whatsoever, fails to recover a loss, in whole or in part, from the insurer under any applicable policy, even though the premium charged by the insurer may be different from what MoLo charges Shipper. Any difference in charges between actual premium and premium stated on the invoice is a reasonable administrative charge for the cost incurred by MoLo for arranging such shipment-specific insurance for and on behalf of Shipper. Shipper acknowledges and agrees that MoLo's role is limited to facilitating placement of insurance coverage with entities licensed to sell or broker cargo insurance, and that MoLo is not in the business of selling insurance or insuring risk.

9. **SURETY BOND.** MoLo, in its capacity as a broker, shall maintain a surety bond or trust fund agreement, as required by the FMCSA, and shall furnish Shipper with proof upon written request.

10. **INDEMNIFICATION.** Shipper must defend, indemnify, and hold MoLo, MoLo's employees and agents harmless from and against, and shall pay and reimburse for, any and all claims, losses, damages, liabilities, fines, judgments, penalties and amounts (including reasonable attorney fees) arising from or related to: (i) Shipper's or Shipper's employees' or agents' negligence or intentional misconduct; (ii) Shipper's breach of these Terms and Conditions; (iii) Shipper's or Shipper's employees' or agents' violation of applicable laws, rules, or regulations; (iv) Shipper's failure to provide, or MoLo's or the Carrier's compliance with or reliance on, instructions, directions, or request of Shipper; or (v) claims by Shipper, Shipper's customers, or any party to a bill of lading seeking to impose liability on MoLo in excess of the liabilities expressly assumed by MoLo herein or in excess

of limitations on or exclusions from liability as set forth herein. Shipper must also indemnify MoLo from any attempts to recover from MoLo by Shipper's insurance carrier. The obligation to defend includes payment of all reasonable costs of defense, including attorney fees, as they accrue. The foregoing notwithstanding, Shipper's obligation to hold harmless, defend, indemnify, pay and reimburse shall not apply to the extent any claim is caused by the negligence or intentional misconduct of MoLo. Shipper may not enter into any third-party agreements that would, in any manner whatsoever, constitute an admission of fault by MoLo or bind MoLo in any manner, without MoLo's prior written consent.

11. **ASSIGNMENT/MODIFICATIONS OF AGREEMENT.** These Terms and Conditions may not be assigned or transferred by Shipper, in whole or in part, for any reason whatsoever without MoLo's prior written consent, and any such action or conduct in violation of the foregoing will be void and without effect. MoLo expressly reserves the right to assign these Terms and Conditions and to delegate any of its duties and obligations hereunder.
12. **SEVERABILITY/SURVIVABILITY.** In the event that the operation of any portion of these Terms and Conditions results in a violation of any law, or any provision is determined by a court of competent jurisdiction to be invalid or unenforceable, the Parties agree that such portion or provision shall be severable, and that the remaining provisions of these Terms and Conditions shall continue in full force and effect. The representations and obligations of the Parties shall survive the termination of these Terms and Conditions for any reason.
13. **INDEPENDENT CONTRACTOR.** It is understood between MoLo and Shipper that MoLo is not an agent for Carrier or Shipper and shall remain at all times an independent contractor. Shipper does not exercise or retain any control or supervision over MoLo, its operations, employees, or Carrier. MoLo does not exercise or retain any control or supervision over Carrier, its operations, employees, or Shipper.
14. **NONWAIVER.** Failure of either Party to insist upon performance of any of the terms, conditions or provisions of these Terms and Conditions, or to exercise any right or privilege herein, or the waiver of any breach of any of the terms, conditions or provisions of these Terms and Conditions, shall not be construed as thereafter waiving any such terms, conditions, provisions, rights or privileges, but the same shall continue and remain in full force and effect as if no forbearance or waiver had occurred.
15. **NOTICES.** Excluding service of process, any notices to MoLo must be sent to MoLo, Attn: Vice President Yield Mgt., 8401 McClure Drive, Fort Smith, AR 72916, and must be delivered either by certified or registered mail, return receipt requested and postage prepaid, or by overnight courier service, and are deemed given upon receipt by MoLo or Shipper.
16. **FORCE MAJEURE.** Neither Party shall be liable to the other for failure to perform any of its obligations under these Terms and Conditions during any time in which such



performance is prevented by fire, flood, or other natural disaster, war, pandemic, embargo, riot, civil disobedience, or the intervention of any government authority, or any other cause outside of the reasonable control of Shipper or MoLo, provided that the Party so prevented uses its best efforts to perform under these Terms and Conditions and provided further, that such Party provide reasonable notice to the other Party of such inability to perform. Performance requirements are extended by the amount of the delay except for payment obligations.

17. **CHOICE OF LAW AND VENUE.** All questions concerning the construction, interpretation, validity and enforceability of these Terms and Conditions, whether in a court of law or in arbitration, shall be governed by and construed and enforced in accordance with the federal laws regarding transportation, where applicable, and otherwise by the laws of the State of Illinois, without giving effect to any choice or conflict of law provision or rule that would cause the laws of any other jurisdiction to apply. The Parties agree to the exclusive personal jurisdiction and venue in a federal or state court in Cook County, Illinois.
18. **ENTIRE AGREEMENT.** These Terms and Conditions constitute the entire agreement intended by and between the Parties and supersedes all prior agreements, representations, warranties, statements, promises, information, arrangements, and understandings, whether oral, written, expressed or implied, with respect to the subject matter hereof. No terms and conditions stated in Shipper's purchase order or in any other Shipper order or tender documentation shall be incorporated into or form any part of this agreement, and all such terms and conditions shall be null and void. Notwithstanding anything to the contrary herein, MoLo reserves the right, at its sole discretion to modify and amend these Terms and Conditions at any time. In the event these Terms and Conditions are modified, the updated Terms and Conditions will be posted on MoLo's website. The current version shall be applicable at the time of shipment. By booking services with MoLo or tendering shipments to MoLo, Shipper agrees to be bound by these Terms and Conditions at the time of tender.